



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/654,660	09/05/2000	Stephen R. Carter	6647-17	8081

20575 7590 12/08/2003

MARGER JOHNSON & MCCOLLOM PC  
1030 SW MORRISON STREET  
PORTLAND, OR 97205

EXAMINER

LEZAK, ARRIENNE M

ART UNIT	PAPER NUMBER
----------	--------------

2143

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/654,660	CARTER ET AL.	
	Examiner	Art Unit	
	Arrienne M. Lezak	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 283      6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 7-10 and 13-15 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,078,953 to Vaid.

3. Regarding Claims 1, 7 and 13, Vaid discloses a computer-implemented method, medium and apparatus for enforcing policy over a computer network, the method comprising: defining a template; assigning a policy to the computer network; monitoring a content stream on the computer network; and enforcing the policy when the content stream is within a threshold distance of the template, (Col. 16, lines 18-63; Fig. 3; and Fig. 8).

4. Regarding Claims 2 and 8, Vaid discloses a computer-implemented method, medium and apparatus wherein assigning a policy includes assigning a policy to limit bandwidth on the computer network for content in the content stream within the threshold distance of the template, (Col. 4, lines 29-32 and Col. 6, lines 39-63).

5. Regarding Claims 3 and 9, Vaid discloses a computer-implemented method, medium and apparatus wherein assigning a policy includes assigning a policy to limit

access to a document on the computer network within the threshold distance of the template, (Col. 7, lines 30-50 – incl. Table 2; Col. 8, lines 1-34).

6. Regarding Claims 4, 10, 14 and 15 Vaid discloses a computer-implemented method, medium and apparatus wherein monitoring a content stream includes monitoring metadata of the content stream, (Col. 17, lines 8-50; Col. 19, lines 54-55; and Col. 20, lines 1-2).

7. Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 1-4, 7-10 and 13-15.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5, 6, 11, 12, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,078,953 to Vaid in view of US Patent 5,276,677 to Ramamurthy. Vaid ('953) is relied upon for the teachings as discussed above relative to Claims 1-4, 7-10 and 13-15. However, Vaid does not specifically disclose or describe the monitoring of a content stream comprising monitoring a portion of the content stream on the computer network; and extrapolating how close the entire content stream is to the template from the portion of the content stream, (as required by pending Claims 5, 11 and 16). Vaid also does not specifically disclose or describe the monitoring of a

content stream which includes constructing an impact summary for the content stream, (as required by pending Claims 6, 12 and 17).

10. Ramamurthy ('677) discloses a predictive congestion control of high-speed wide area networks comprising extrapolation and summary methods, (Abstract and Col. 11, lines 6-25).

11. To incorporate the traffic control extrapolation and impact summary methods from Ramamurthy into the Vaid quality of service monitoring system would have been obvious to one of ordinary skill in this art at the time of invention by applicant, as noted within Vaid, (Col. 18, lines 46-64). Vaid discloses the use of congestion, utilization and performance degradation reports for purposes of day-to-day troubleshooting and justification and validation of policy decisions. It would be obvious to conform such reports to include extrapolation and impact summary functionalities, as they would further serve to necessitate evaluation of the affected service.

12. Thus, Claims 5, 6, 11, 12, 16 and 17 are unpatentable over the combined teachings of Vaid in view of Ramamurthy.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US PATENT 6,097,697 to Yao.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (703)-305-0717. The examiner can normally be reached on M-F 8:30-4:30.

Application/Control Number: 09/654,660  
Art Unit: 2143


Page 5

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703)-308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-6121.

Arrienne M. Lezak  
Examiner  
Art Unit 2143

AML



**DAVID WILEY**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**